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May 25, 2001

Magalie Roman Salas, Secretary  
Federal Communications Commission  
Office of the Secretary  
445-12<sup>th</sup> Street, SW  
Room TW-204B  
Washington, D.C. 20554

**RE:** Revision of the Commission's Rules to Ensure Compatibility with  
Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102,  
Cincinnati Bell Wireless LLC's Amended Petition for Waiver

Dear Ms. Salas:

Enclosed are an original and four copies plus two additional public copies of Cincinnati Bell Wireless LLC's ("CBW") Amended Petition for Waiver of the Commission's E911 Phase II location technology implementation rules, 47 C.F.R. §§20.18(e), (f), and (g), as adopted in the above referenced proceeding. This petition includes certain amendments to the original petition CBW filed with the Commission on April 30, 2001. These amendments were made at the request of Commission staff. A duplicate original copy of this letter is enclosed; please date stamp this copy as acknowledgement of its receipt and return it. Questions regarding this filing may be directed to me at the above address or by telephone at (513) 397-7260.

Sincerely,

Jollett Kinney  
Regulatory Analyst

Enclosures

cc: Kris Monteith, Wireless Telecommunications Bureau  
George Wheeler

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Before the  
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Washington, D.C. 20554

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In the Matter of

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Revision of the Commission's Rules  
To Ensure Compatibility with Enhanced  
911 Emergency Calling Systems

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CC Docket No. 94-102

**CINCINNATI BELL WIRELESS LLC**  
**AMENDED PETITION FOR WAIVER OF THE E911 PHASE II**  
**LOCATION TECHNOLOGY IMPLEMENTATION RULES**

Christopher J. Wilson  
Attorney for Cincinnati Bell Wireless LLC  
201 E. Fourth Street  
Room 102-620  
Cincinnati, OH 45202

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**CINCINNATI BELL WIRELESS LLC**  
**AMENDED PETITION FOR WAIVER OF THE E911 PHASE II**  
**LOCATION TECHNOLOGY IMPLEMENTATION RULES**

Cincinnati Bell Wireless LLC ("CBW"), pursuant to Section 1.3 of the Commission's rules, 47 C.F.R. §1.3, hereby respectfully requests waiver of the E911 Phase II location accuracy and implementation deadline provisions of Sections 20.18(e), (g), and (h) of the Commission's rules, 47 C.F.R. §§ 20.18(e), (f), and (g). CBW seeks waiver of these provisions to permit AT&T Wireless Services, Inc. ("AWS") to deploy Mobile-Assisted Network Location System ("MNLS") technology for CBW's TDMA customers by the end of the first quarter of 2002. While CBW makes this request for waiver individually, the request mirrors that made by AWS as filed with the Commission on April 4, 2001.<sup>1</sup> For the reasons set forth below, CBW fully satisfies the good cause standard established by *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) for securing a waiver.<sup>2</sup>

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<sup>1</sup> *AT&T Wireless Services, Inc. Request for Waiver of the E911 Phase II Location Technology Implementation Rules*, CC Docket 94-102, filed April 4, 2001.

<sup>2</sup> On April 30, 2001, CBW filed a petition for waiver of the E911 Phase II location accuracy and implementation deadline provisions of Sections 20.18(e), (g), and (h) of the Commission's rules, 47 C.F.R. §§ 20.18(e), (f), and (g). Subsequently, Commission staff requested that CBW amend its petition to account for planned deployment by AT&T Wireless Services, Inc. ("AWS") of services based on the Global System for Mobile Communication

## **INTRODUCTION AND SUMMARY**

CBW is an Ohio limited liability company created as a joint venture between Broadwing Inc. (formerly Cincinnati Bell Inc.) and AWS. CBW holds licenses for Broadband PCS services in the Cincinnati and Dayton, Ohio Basic Trading Areas ("BTAs"), covering the greater Cincinnati metropolitan area as well as several counties in northern Kentucky and Indiana.

CBW began providing facilities-based PCS services as a joint venture with AWS in January 1999.<sup>3</sup> Among the agreements underlying the joint venture is the Network Management Agreement ("NMA"), an agreement requiring AWS to provide all planning, engineering, operations, and support functions related to CBW's PCS network. In accordance with this arrangement, AWS determines hardware and software upgrades for the CBW network and implements them as part of its nation-wide deployment program. Thus, from an engineering and operations perspective, CBW's network is treated as another AWS market. Planning and implementing E911 upgrades specifically fall within AWS' responsibilities as part of the NMA.<sup>4</sup>

Based upon its relationship with AWS, as set forth above, CBW requests the same consideration given to AWS' request for waiver filed on April 4, 2001.<sup>5</sup>

### **I. THE LEGAL STANDARD FOR WAIVERS**

Pursuant to Section 1.3 of the Commission's rules, 47 C.F.R. §1.3, the Commission can waive provisions of its rules if good cause is shown. In accordance with the good cause standard

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("GSM") standard. CBW has included the requested information in footnote 5 to the text. All other text in the amended petition remains unchanged from the original petition.

<sup>3</sup> From May 1998 through December 1998, Broadwing, operating as Cincinnati Bell Wireless Company, provided PCS service as a reseller of AWS' services.

<sup>4</sup> CBW is currently attempting to transition network responsibility from AWS to CBW but has not yet done so completely. At the date of this petition, full operational responsibility for the network remains with AWS.

<sup>5</sup> In its petition, AWS bases its waiver request in part upon a planned deployment of services utilizing the Global Systems for Mobile Communications ("GSM") standard. CBW currently offers only TDMA-based services. However, as an AWS affiliate and AWS market, it is probable that CBW will also adopt the GSM standard should CBW deploy services utilizing another standard. Similarly, to the extent the NMA remains in place at the time of

established by *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), a waiver is only appropriate where special circumstances warrant a deviation from the general rules and such a deviation is in the public interest.<sup>6</sup> With respect to E911 Phase II rules specifically, the Commission has stated that waiver of the rules may be appropriate if “technology related issues or exceptional circumstances” make compliance with the Phase II October 1, 2001 deadline impossible to meet.<sup>7</sup> For the reasons set forth below, CBW fully satisfies the good cause standard for securing a waiver.

## **II. CBW REQUIRES WAIVER OF THE COMMISSION’S ACCURACY RULES FOR HANDSET BASED LOCATION TECHNOLOGIES**

CBW requires waiver of the Commission’s accuracy rules for handset based location technologies in order for AWS to deploy MNLS in CBW’s network pursuant to the NMA. As explained more fully in AWS’ request for waiver, AWS plans to deploy MNLS in its existing TDMA network should the Commission grant its April 4, 2001 waiver request. MNLS is the standards-compliant network-overlay E911 Phase II solution that AWS has determined to be the most feasible Phase II technology solution for the TDMA air interface. Among the advantages cited in AWS’ waiver request are that MNLS will work with existing TDMA handsets and will support callers using uninitialized phones. According to AWS, the MNLS solution also uses functionality currently required by the wireless network and thereby eliminates the need for extensive network changes.<sup>8</sup> Based on these advantages and AWS’ plans to fully deploy MNLS throughout its network (including CBW’s network) by the end of first quarter 2002, AWS

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any deployment of GSM-based services, it is probable that responsibility for engineering and implementing E-911 upgrades would remain with AWS.

<sup>6</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 D.C. Cir. 1969).

<sup>7</sup> Revision of the Commission’s Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Fourth Memorandum Order and Opinion*, FCC 00-326 (rel. Sept. 8, 2000), at ¶43.

<sup>8</sup> See AWS’ Request for Waiver at page 3.

proposes that MNLS is the best E911 Phase II option available for both wireless customers and the public safety community.<sup>9</sup>

While AWS' research indicates that MNLS is the most viable E911 Phase II solution for TDMA, testing has also shown that MNLS offers accuracy levels slightly below those required by the Commission's rules. As demonstrated by AWS' analysis of the advantages of MNLS deployment, however, "the difference in accuracy performance among the various options is not substantial enough to outweigh the overwhelming customer and public safety benefits offered by MNLS."<sup>10</sup> It is for this reason that AWS and now CBW request waiver of the Commission's E911 Phase II location accuracy requirements of Sections 20.18(e), (g), and (h) of the Commission's rules, 47 C.F.R. §§ 20.18(e), (f), and (g).

### **CONCLUSION**

CBW requests waiver of the Commission's rules governing E911 Phase II location accuracy and implementation deadlines. Such a waiver is necessary to permit AWS to deploy MNLS in CBW's TDMA network pursuant to the parties' Network Management Agreement. As demonstrated by AWS, MNLS for the TDMA air interface will best meet the Commission's public safety objectives and is, therefore, in the public interest. CBW respectfully requests that the Commission give CBW's petition the same consideration given to AWS' request and expeditiously grant the waiver requested herein.

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<sup>9</sup> Id. at 12.

<sup>10</sup> Id.

Respectfully submitted,

Cincinnati Bell Wireless LLC

By 

Christopher J. Wilson

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201 East Fourth Street

Room 102-620

Cincinnati, Ohio 45202

May 25, 2001